

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD.

SPECIAL CIVIL APPLICATION No 11071 of 1998

For Approval and Signature :

Hon'ble MR. JUSTICE S.K.KESHOTE

1. Whether Reporters of Local Papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the Judgment ?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SMT MACHHABEN NAGJIBHAI
VERSUS
DIRECTOR, PENSION & PROVIDENT FUND

Appearance:

MR SN BHATT for the Petitioner
MR SP HASURKAR for Respondents

CORAM : MR JUSTICE S.K. KESHOTE
Date of decision: 24/07/99

C.A.V. JUDGMENT

1. It is really shocking that in the matter where a widow of deceased Government servant is praying for family pension, the respondents even have not cared to

file reply to the special civil application. It is sorry state of affairs prevailing in the State of Gujarat that despite of setting an handsome budget for defending the litigations in the courts, the total contribution as time and again I said of the State of Gujarat, its functionaries and officers, is to be a silent spectator in the Court. In absence of the reply to the special civil application, in some cases it is difficult for the Court to decide the same. Secondly, it unnecessarily delays the decision in the matter. Moreover, without reply if the advocate of the other side appears, it is also of little help to the Court to provide effective assistance in deciding the case. Not only this, even the State Government has not cared to send some officer along with the record of the case in the Court. If ultimately the matters are to be decided by the Courts themselves without any assistance from the State of Gujarat, I fail to see what for this "Office of the Government Pleader" is functioning. This amount can be effectively utilised for the welfare of the poor persons. Be that as it may.

2. The husband of the petitioner was in the employment of the respondent No.2 since 1963 and he retired from the services on attaining the age of superannuation on 30th June, 1988. From the record of this special civil application, I find that he was an employee of the respondent No.2. The husband of the petitioner filed an application before the Gratuity Controlling Authority, Rajkot for direction to the respondents to pay gratuity to him, which was accepted. That decision has not been challenged and it attained the finality. The husband of the petitioner expired on 30th September, 1996 but the petitioner has not been given any family pension.

3. Her claim has been rejected on the ground that her husband had not completed the qualifying services to make himself eligible for pension. That is hardly of any substance. The claim of the petitioner for family pension has to be considered with reference to the Family Pension Scheme, 1972 as provided by the resolution No. FPS/1971/J dated 1-1-1972 of the Government of Gujarat, Finance Department, Sachivalaya, Gandhinagar.

4. Learned counsel for the respondents when confronted with this Government Resolution fairly submitted that the case of the petitioner needs to be considered with reference to the above Government Resolution.

5. In the result, this special civil application is allowed and the respondents No.1 and 3 are directed to consider the case of the petitioner of claim of family pension with reference to the Government Resolution aforesaid. The final decision in this case has to be taken within a period of one month from the date of receipt of writ of this order. In case the petitioner is found entitled for family pension then arrears of family pension should be paid to her within a period of one month next together with interest thereon at the rate of 12% per annum and she shall be paid the family pension regularly. Where the claim of the petitioner for family pension is not acceptable, then a reasoned order may be passed and copy of the same may be sent to the petitioner by registered post A.D.. Liberty is granted to the petitioner for revival of this special civil application in case of difficulty by filing a simple note. Rule is made absolute accordingly.

zgs/-